

Route 12 - Old Receiver Road
Frederick, Md. 21701

December 23, 1977

Mr. Peter Milius
National Editor
The Washington Post
Washington, D. C. 20005

Dear Mr. Milius:

Jim Lesar has sent me a copy of his yesterday's letter to you and of the Post's story of the 21st relating to my request for a temporary injunction in the matter of the next FBI release of JFK assassination records.

If I for a minute thought either the Post or George Lardner intended unfairness, I'd not be taking time to write you. I'd also not have taken time to speak with him yesterday, when I had not seen the story but had had it read to me.

Having seen it and its headline and having had reaction to it, I believe it was unfair. I know it is already hurtful. It has led to the misunderstandings I told George it would cause.

I am aware of the problems of writing heads and of time pressures, but for those of experience it would have been as easy to be accurate in the head as it was not to be. A temporary injunction does not "block" even if granted. At most, it may "delay." Both words take the same number of type units. "Block" is inaccurate in every sense.

This is even more true of the opening paragraphs, where headline limitations do not limit the Post. It simply is not true that I asked "for a federal court injunction to block the impending release of another 40,000 pages of FBI documents on the 1963 assassination of President Kennedy." Nor do I believe this can become fair if a few readers take the time to give a proper interpretation to the final paragraph, which does state that I want to be able to serve the media when the records are available. Besides, the word "temporary" is again missing. It is not used in the story at all.

The Post knows that I have made many long and costly efforts to bring to light suppressed information and have held press conferences to give it away when I obtained it. I have done this with important materials prior to my own publication of them and at some hurt to my own publication.

One magazine writer, resentful over the fact that 40,000 pages were released at one time, thus indigestible, after reading your story actually believed that I asked for a permanent injunction. He phoned to applaud this. Others, obviously, will hold the same interpretation very much against me.

I doubt if there is anyone else who has tried for as long or as hard or at as much personal cost or against greater odds to have this information made available. To see that as much as possible is permanently available, I have already deeded all my files to a university. It is not the major media but I who carried the FOIA fight to the Supreme Court and thus contributed to the 1974 amendments to the Act. Certainly this was not to "block" the release of public information.

One of the areas in which hurt to me is certain is in FOIA cases, the four current and those still to be filed.

It is not always easy to correct a news story. Some readers never see the rectification. Others have their minds already set.

In the event you agree that this is not a fully accurate account, I suggest a means of rectification, one I believe would make a legitimate news story and would be helpful to freedom of information.

This would be to do a story on the background and meaning of the voluminous releases. Such a volume is indigestible. It does make a fiercely competitive situation for the press, one conducive to error and incompleteness. It does lead to what amounts to official propaganda.

The Post alone was able to avoid being so misused because it was able to and did consult with me.

These FBI releases are in overt and deliberate violation of the Act. Without the violation of the Act, the "deluging" of even the most diligent of reporters would not have been possible.

I have about 25 JFK FOIA requests that have not been met by the FBI alone. I have obtained a copy of Hoover's approval of the violation of the Act to deny me (and the Post and others through me) what I sought under FOIA.

The government has not been honest in what it told the press about these releases. According to testimony my counsel adduced a year ago last September, by then there had been three complete FBI reviews of the Headquarters JFK files - without the meeting of any one of these FOIA requests.

Why did the FBI not abide by the law? Why did it not, after failing even to question me on cross-examination more than 15 months ago, then respect the law and provide the records?

Obviously, if it had complied, it would not have been able to stage these media events. It could not obtain what amounts to total immunity for most of the records, these reporters did not have time to read and these reporters lacked the factual knowledge required to understand. If I had been able to obtain these records over a period of years and had been able to provide them to good reporters like George Lardner, what might have appeared in the papers would have been of a different nature.

The Post appears to have been alone among newspapers in realizing that it could not begin to digest so vast a volume. I applaud its editorial judgment in focusing on the investigation. It was responsible journalism and it was the one way the Post could, under the conditions imposed by officialdom, meet traditional journalistic responsibilities. (If I was able to contribute to this I am happy because I also have a responsibility coming from my subject knowledge and role as what the courts call a "public attorney general.") However, the Post was able to report little of the supposedly evidentiary content of those 40,000 pages. You just could not cope with that mess.

It is precisely this imposition upon the press and through it upon the people and the workings of representative society that I seek to address in the suit. I cannot prevent a media event. I cannot prevent official propaganda. I cannot "block" the release. I cannot eliminate the competitive position in which each component of the press will again find itself. However, if I have the records I can be in a better position to be of help to those in the press who want to know what I can impart, such as "Is this news?" or "Has this been investigated and confirmed or disproved?"

I seek to be able to do this by using the rights bestowed upon all by the Act. It is in no sense selfish. It cannot be. I am nearing my 65th year, am in imperfect health, need no more records to keep busy writing for the next decade, and cannot take time now to read all 80,000 pages.

Waiver of costs was written into the Act in 1974 because Congress recognized that there are some of us who are unable to pay the costs and because we do serve public purposes.

(With respect to me in a JFK case, the court of appeals has imposed a heavy burden upon me: to establish the existence or nonexistence of records sought from the FBI and to do this by the taking of first-person testimony. My bill from the court reporter was about equal to my income for the last quarter.)

The officials who have violated my rights since 1968 and have violated the Acts in so doing have thus denied public information to the press. These same officials have again violated the Act by simply refusing to rule on my completely proper request. This damages me all over again. It also again interferes with public knowledge.

There is nothing exceptional or selfish in what I have done. The contrary is true. I also have incurred still more costs that are burdensome for me and more delays in the writing I want to do.

There certainly is no intent or possibility of "blocking" the coming releases and I did not ask this, despite the Post's interpretation.

I add this personal explanation in the hope it may help you see there can be no personal benefit to me in the kind of story I suggest. It cannot even help the sale of my books. I know of no bookstore in Washington that has a single one for sale.

Besides, I really do believe there should be this kind of story. It is justified by normal news considerations. It might even deter the excuses self-seekers in the field find for accusing the major papers of serving the spooks.

Unless the press does speak out, there will be more of what was just repeated in the UPI story of the 21st, supposedly based on "new" Secret Service records. The content was not new and the story did not distinguish between pro- and anti-Castro Cubans.

A release of this magnitude makes the press an adjunct of officialdom no matter how hard it tries not to be. I want this no more than you do.

Sincerely,

Harold Weisberg